country only after years of struggle, so as to implant them in our institutions in the fullness of their integrity, free from the possibilities of future legislative change.'

"And further in the opinion is the following quotation from a note to Gilham's case, 2 Moody, 194, 195:

" 'The human mind, under the pressure of calamity, is easily seduced; and is liable, in the alarm of danger, to acknowledge indiscriminately a falsehood or a truth, as different agitations may prevail.'

"Whilst the Bram case is confined primarily to the rules of law relating to the admissibility of alleged confessions in criminal trials, yet it presents the purposes of the Fourth and Fifth Amendments to the Constitution in such forceful and impressive language that we cite it as bearing upon the proposition that whatever the defendant in this case may have said, when confronted by the sheriff and his deputy, who had wrongfully entered his dwelling in pursuit of evidence to sustain a charge of crime against him, should not be accepted as testimony in his trial."

Forgery—Obtaining Signature by Fraud.—In Austin *v.* State, 228 S. W. 60, the Supreme Court of Tennessee held that persons who obtained the signature of a person to a deed fraudulently by representing it to be an affidavit were not guilty of forgery under Thomp. Shan. Code, sec. 6596.

The court said in part:

"Section 6596 of Thompson's Shannon's Code defines forgery as follows:

" 'Forgery is the fraudulent making or alteration of any writing to the prejudice of another's rights.'

"It is insisted on behalf of the defendant Austin that the facts detailed above do not constitute forgery, and he relies upon the case of Hill *v.* State, 1 Yerg. 76, 24 Am. Dec. 141, in support of his contention. We quote from that case as follows:

" 'That on the 3d day of April, 1822, in the county of Williamson, the accused sold land to Daniel Ireland for $465, to be paid in installments at stated periods; that the note on which the indictment is founded was executed at the time and place aforesaid, in part payment for the land, that Ireland was an illiterate man; that the accused wrote the note, with the other notes for the consideration money, in presence of the said Ireland and the subscribing witness, and read it, together with the other notes, over to the prosecutor in the hearing of the subscribing witness; that he, the accused had written the note in question for $100, when it should have been written for $65; that it was by the accused falsely and fraudulently read over as a note for $65, when in fact it was written for $100, and that it was done with a view to defraud and injure the said Daniel,' etc. On this special finding the circuit court gave judgment against the prisoner, from which

judgment this writ of error is prosecuted. Waiving for the present the form of the indictment and want of plea and issue, let us inquire if the facts found constitute the offense of forgery. Forgery, at the common law, is the falsely making a note or other instrument with intent to defraud. The definition implies that there must be an act done, or procured to be done, to constitute this offense. The above definition is taken from 2 Leach, Crown Law, 785, where the author says: 'A note or other instrument may be falsely made, either by putting on it a name of a person who does not exist, or by putting on it the name of one in existence without his consent, or by altering it,' etc. Here the accused has put no name to the instrument; but it is found by the special verdict that he wrote the note for the wrong sum and then induced the signing by a false reading; still it was the real, signature of the person; and all that can be said is that he was cheated, by a false representation of the accused. This, though a cheat, was not a forgery.'

"And so in the instant case the accused put no name to the instrument, but he induced the signing by a false reading, or by a false pretense, but the signature was the real signature of the prosecutor, who was cheated by a false representation of Yeaman. We are of the opinion that the case just quoted from is in point. It was decided by this court ninety-seven years ago, and has never been overruled or modified, and we see no occasion to overrule it at this late date, especially since we have a statute that covers a case like the one under consideration, and which will be referred to later.

"In other jurisdictions the authorities are at variance as to whether the fraudulent procurement of a genuine signature constitutes forgery. In the latest case to which our attention has been called, People *v.* Pfeiffer, 243 Ill. 200, 26 L. R. A. (N. S.) 138, 90 N. E. 680, 17 Ann. Cas. 703, the court holds that a signature procured in such manner does not constitute forgery, and cites and approves in the opinion the case of Hill *v.* State, supra, and states that the weight of authority is to this effect. In a note to this case, beginning on page 705 of 17 Ann. Cas., the annotator states that such procurement is held to constitute forgery in Alabama, Iowa, Kentucky, Maine, Masschusetts, Michigan, Ohio, and Wisconsin, and that it is not forgery according to the decisions of the courts in Georgia, Illinois, Kansas, Mississippi, New Hampshire, New York, Pennsylvania, and Tennessee. He further states that in England the cases are so much in conflict that it cannot be said that either view has been established.

"Mr. Bishop, in vol. 1, p. 584, of his New Criminal Law, says: 'According to a doctrine apparently just in reason, and sustained by numerous yet conflicting authorities, one does not commit forgery who, by fraudulently misrepresenting the contents of an unexecuted instrument, or by misreading or altering it, prevails on another to sign it, supposing himself to be executing what is different.' "